

ROBERT E. BELSHAW, ESQ. (SBN 142028)
OF COUNSEL
GUTIERREZ ■ RUIZ
244 California Street, Suite 300
San Francisco, CA 94111
Telephone: (415) 398-2385
Facsimile: (415) 398-5800

Attorneys for Collegiate Funding Services, Inc.,
Collegiate Funding Services LLC, JP Morgan
Chase Bank, N. A. and Members Connect, Inc.

E-filing

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

EMC

PATRICIA C. SUTTON

Plaintiff,

v.

COLLEGIATE FUNDING SERVICES,
INC., COLLEGIATE FUNDING
SERVICES LLC, JP MORGAN CHASE
BANK, N.A. MEMBERS CONNECT INC.
AND DOES ONE THROUGH FIFTY,
Defendants

Case No. **07 4237**

NOTICE OF REMOVAL OF ACTION

JURY TRIAL DEMANDED

TO THE CLERK OF THE UNITED STATES DISTRICT COURT FOR THE NORTHERN
DISTRICT OF CALIFORNIA AND TO PLAINTIFF PATRICIA C. SUTTON AND HER
ATTORNEYS OF RECORD:

NOTICE IS HEREBY GIVEN that Defendants Collegiate Funding Services, Inc.,
Collegiate Funding Services LLC, JP Morgan Chase Bank, N. A. and Members Connect, Inc.
defendants in the above captioned action, No. RG07336543 in the files and records of the
Superior Court in and for the County of Alameda, hereby files in the United States District
Court for the Northern District of California, a Notice of Removal of this action to the United

1 States District Court pursuant to 28 U.S.C. § 1441 and is filing in said Superior Court a Notice
2 of Removal.

3 Defendants Collegiate Funding Services, Inc., Collegiate Funding Services LLC, JP
4 Morgan Chase Bank, N. A. and Members Connect, Inc. pursuant to 28 U.S.C. § 1441 present
5 the following facts to the United States District Court for the Northern District of California:

6 1. A civil action bearing the above caption was commenced in the Superior Court
7 in and for the County of Alameda, No. RG07336543 on July 19 2007, and is pending therein.

8 2. The Complaint in said pending action alleges fifteen claims for relief. The
9 seventh, eighth, ninth and tenth counts seek relief under 42 U. S. C 2000e *et seq.* Counts eleven
10 through fourteen seek relief under the Age discrimination in Employment Act (29 U.S.C 621
11 *et seq.* Count fifteen seeks relief under 42 U.S.C. 1981.

12 3. This action is one which may be properly removed to this Court pursuant to 28
13 U.S.C. 1441 (b) for the reason that the plaintiff in this action alleges violations of the laws of
14 the United States, over which this court has original jurisdiction. To the extent that plaintiff's
15 Complaint alleges claims other than violations of rights under the laws of the United States,
16 said claims may be removed and adjudicated by this Court pursuant to 28 U.S.C. 1441 (c).

17 4. On information and belief, no Defendant has been served with the Summons
18 and Complaint. Pursuant to 28 U.S.C. 1446 (b) a copy of the Summons and Complaint are
19 attached hereto as Exhibit A.

20 5. All named defendants herein have consented to this removal.

21
22 DATED:

23 GUTIERREZ • RUIZ

24
25 By: 

26 Robert E. Belshaw
27 Attorney for Defendants
28



FILED
ALAMEDA COUNTY

JUL 19 2007

By *Patricia C. Sutton*

1 BARBARA A. LAWLESS - Bar # 53195
2 SONYA L. SMALLETS - Bar # 226190
3 LAWLESS & LAWLESS
4 180 Montgomery Street, Suite 2000
San Francisco, CA 94104
Telephone: (415) 391-7555

5 Attorneys for Plaintiff
6 PATRICIA C. SUTTON

7 SUPERIOR COURT OF THE STATE OF CALIFORNIA

8 IN AND FOR THE COUNTY OF ALAMEDA

9 (Unlimited Jurisdiction)

10 PATRICIA C. SUTTON,

11 Plaintiff,

12 vs.

13 COLLEGIATE FUNDING SERVICES,
14 INC., COLLEGIATE FUNDING
15 SERVICES, LLC, JPMORGAN CHASE
16 BANK, N.A., MEMBERS CONNECT INC.
17 and DOES ONE through FIFTY, inclusive,

18 Defendants.

) No. **RG07336545**
)
) COMPLAINT FOR DAMAGES ARISING
) FROM DISCRIMINATION, RETALIATION,
) FOR ATTORNEYS' FEES AND COSTS AND
) FOR PUNITIVE DAMAGES
)
)
) JURY TRIAL DEMANDED
)
) *Amount Demanded Exceeds*
) *\$25,000 (Gov't. Code § 72055)*

19
20 Plaintiff PATRICIA C. SUTTON complains against defendants, and each of them, demands a
21 trial by jury of all issues and for causes of action alleges:

22 **FACTS COMMON TO MORE THAN ONE CAUSE OF ACTION**

23 1. Plaintiff is ignorant of the true names or capacities of the defendants sued here under
24 the fictitious names DOE ONE through DOE FIFTY, inclusive. Plaintiff is informed and believes
25 that each of DOE defendants was responsible in some manner for the occurrences and injuries alleged
26 in this complaint.

1 2. At all times mentioned in the causes of action into which this paragraph is
 2 incorporated by reference, each and every defendant was the agent or employee of each and every
 3 other defendant. In doing the things alleged in the causes of action into which this paragraph is
 4 incorporated by reference, each and every defendant was acting within the course and scope of this
 5 agency or employment and was acting with the consent, permission, and authorization of each of the
 6 remaining defendants. All actions of each defendant alleged in the causes of action into which this
 7 paragraph is incorporated by reference were ratified and approved by the officers or managing agents
 8 of every other defendant.

9 3. At the pertinent times mentioned in this complaint, defendant JPMORGAN CHASE
 10 BANK, N.A. was a national bank doing business in the State of California. At the pertinent times
 11 mentioned in this complaint, defendants COLLEGIATE FUNDING SERVICES, INC. and
 12 MEMBERS CONNECT INC. were corporations doing business in the State of California. At the
 13 pertinent times mentioned in this complaint, defendant COLLEGIATE FUNDING SERVICES, LLC
 14 was a limited liability company doing business in the State of California. Defendant JPMORGAN
 15 CHASE BANK, N.A. will be referred to as "JPMORGAN." Defendant COLLEGIATE FUNDING
 16 SERVICES, INC., defendant COLLEGIATE FUNDING SERVICES, LLC, and defendant
 17 MEMBERS CONNECT INC. will be referred to collectively as "CFS." Defendant COLLEGIATE
 18 FUNDING SERVICES, INC., defendant COLLEGIATE FUNDING SERVICES, LLC, defendant
 19 MEMBERS CONNECT INC., and defendant JPMORGAN CHASE BANK, N.A. will be referred to
 20 collectively as "DEFENDANTS."

21 4. On or about September 2, 2003, defendant CFS hired plaintiff for the position of VP
 22 Sales West.

23 5. Plaintiff received raises recognizing her satisfactory performance throughout her
 24 employment.

25 6. At all times, plaintiff performed her job in a satisfactory manner. Plaintiff regularly
 26 received satisfactory evaluations of her performance.

 7. Plaintiff was terminated on the basis of her color, race, national origin, and sex, or any

1 combination of those; and despite her continued satisfactory job performance on or about March 29,
2 2006, in violation of the Fair Employment and Housing Act, Title VII, ADEA, and 42 U.S.C. § 1981.

3
4 **FIRST CAUSE OF ACTION**
5 **Racial Discrimination in Violation of the**
6 **California Fair Employment and Housing Act**

7 As a first, separate and distinct cause of action, plaintiff complains against DEFENDANTS
8 and DOES ONE through FIFTY, and each of them, and for a cause of action alleges:

9 8. Plaintiff hereby incorporates by reference Paragraphs 1 through 7, inclusive, as though
10 set forth here in full.

11 9. DEFENDANTS and DOES ONE through FIFTY are employers in the State of
12 California, as defined in the California Fair Employment and Housing Act ("FEHA").

13 10. DEFENDANTS and DOES ONE through FIFTY discriminated against plaintiff on the
14 basis of her color and race, African American, and discharged plaintiff and/or failed to hire her
15 because of her race, African-American, in violation of the California Fair Employment and Housing
16 Act. DEFENDANTS told plaintiff that she was terminated due to changes in business related to the
17 acquisition of CPS by JPMORGAN. Other Caucasian CPS employees were not terminated as a result
18 of the same change in business even though they were less qualified and less experienced than
19 plaintiff and plaintiff was not selected for other open positions. Defendants engaged in a pattern and
20 practice of discrimination. The policies of defendants which were neutral on their face resulted in a
21 disparate impact on the class of African Americans and plaintiff was treated differently because of her
22 color and race.

23 11. Plaintiff filed a charge of race discrimination with the California Department of Fair
24 Employment and Housing within one year of the discrimination. The Department issued plaintiff a
25 right-to-sue letter within one year of the filing of this complaint. Plaintiff has exhausted her
26 administrative remedies.

12. Plaintiff suffered damages legally caused by these defendants' discrimination as stated
in the section below entitled "DAMAGES," which is incorporated here to the extent pertinent as if set

1 forth here in full.

2
3 **SECOND CAUSE OF ACTION**
4 **National Origin Discrimination in Violation of the**
5 **California Fair Employment and Housing Act**

6 As a second, separate and distinct cause of action, plaintiff complains against DEFENDANTS
7 and DOES ONE through FIFTY, and each of them, and for a cause of action alleges:

8 13. Plaintiff hereby incorporates by reference Paragraphs 1 through 7, inclusive, as though
9 set forth here in full.

10 14. DEFENDANTS and DOES ONE through FIFTY are employers in the State of
11 California, as defined in the California Fair Employment and Housing Act ("FEHA").

12 15. DEFENDANTS and DOES ONE through FIFTY discriminated against plaintiff on the
13 basis of her national origin, Trinidad-American, and discharged and/or failed to hire plaintiff because
14 of her national origin, Trinidad-American, in violation of the California Fair Employment and
15 Housing Act. DEFENDANTS told plaintiff that she was terminated due to changes in business
16 related to the acquisition of CPS by JPMORGAN. Other American CPS employees were not
17 terminated as a result of the same change in business even though they were less qualified and less
18 experienced than plaintiff and plaintiff was not selected for other open positions. Defendants engaged
19 in a pattern and practice of discrimination. The policies of defendants which were neutral on their
20 face resulted in a disparate impact on the class of Trinidad-Americans and plaintiff was treated
21 differently because of her national origin.

22 16. Plaintiff filed a charge of national origin discrimination with the California
23 Department of Fair Employment and Housing within one year of the discrimination. The Department
24 issued plaintiff a right-to-sue letter within one year of the filing of this complaint. Plaintiff has
25 exhausted her administrative remedies.

26 17. Plaintiff suffered damages legally caused by these defendants' discrimination as stated
in the section below entitled "DAMAGES," which is incorporated here to the extent pertinent as if set
forth here in full.

THIRD CAUSE OF ACTION
Sex Discrimination in Violation of the
California Fair Employment and Housing Act

As a third, separate and distinct cause of action, plaintiff complains against DEFENDANTS and DOES ONE through FIFTY, and each of them, and for a cause of action alleges:

18. Plaintiff hereby incorporates by reference Paragraphs 1 through 7, inclusive, as though set forth here in full.

19. DEFENDANTS and DOES ONE through FIFTY are employers in the State of California, as defined in the California Fair Employment and Housing Act ("FEHA").

20. DEFENDANTS and DOES ONE through FIFTY discriminated against plaintiff on the basis of her sex, female, and discharged and/or failed to hire plaintiff because of her sex, female, in violation of the California Fair Employment and Housing Act. DEFENDANTS told plaintiff that she was terminated due to changes in business related to the acquisition of CPS by JPMORGAN. Other male CPS employees were not terminated as a result of the same change in business even though they were less qualified and less experienced than plaintiff and plaintiff was not selected for other open positions. Defendants engaged in a pattern and practice of discrimination. The policies of defendants which were neutral on their face resulted in a disparate impact on the class of female employees and plaintiff was treated differently because of her sex.

21. Plaintiff filed a charge of sex discrimination with the California Department of Fair Employment and Housing within one year of the discrimination. The Department issued plaintiff a right-to-sue letter within one year of the filing of this complaint. Plaintiff has exhausted her administrative remedies.

22. Plaintiff suffered damages legally caused by these defendants' discrimination as stated in the section below entitled "DAMAGES," which is incorporated here to the extent pertinent as if set forth here in full.

///

///

///

FOURTH CAUSE OF ACTION
Age Discrimination in Violation of the
California Fair Employment and Housing Act

As a fourth, separate and distinct cause of action, plaintiff complains against DEFENDANTS and DOES ONE through FIFTY, and each of them, and for a cause of action alleges:

23. Plaintiff hereby incorporates by reference Paragraphs 1 through 7, inclusive, as though set forth here in full.

24. DEFENDANTS and DOES ONE through FIFTY are employers in the State of California, as defined in the California Fair Employment and Housing Act ("FEHA").

25. DEFENDANTS and DOES ONE through FIFTY discriminated against plaintiff on the basis of her age, 50, and discharged and/or failed to hire plaintiff because of her age, 50, in violation of the California Fair Employment and Housing Act. DEFENDANTS told plaintiff that she was terminated due to changes in business related to the acquisition of CPS by JPMORGAN. Other, younger CPS employees were not terminated as a result of the same change in business even though they were less qualified and less experienced than plaintiff and plaintiff was not selected for other open positions. Defendants engaged in a pattern and practice of discrimination. The policies of defendants which were neutral on their face resulted in a disparate impact on the class of older employees and plaintiff was treated differently because of her age.

26. Plaintiff filed a charge of age discrimination with the California Department of Fair Employment and Housing within one year of the discrimination. The Department issued plaintiff a right-to-sue letter within one year of the filing of this complaint. Plaintiff has exhausted her administrative remedies.

27. Plaintiff suffered damages legally caused by these defendants' discrimination as stated in the section below entitled "DAMAGES," which is incorporated here to the extent pertinent as if set forth here in full.

///

///

///

FIFTH CAUSE OF ACTION
Discrimination in Violation of the
California Fair Employment and Housing Act

As a fifth, separate and distinct cause of action, plaintiff complains against DEFENDANTS and DOES ONE through FIFTY, and each of them, and for a cause of action alleges:

28. Plaintiff hereby incorporates by reference Paragraphs 1 through 7, inclusive, as though set forth here in full.

29. DEFENDANTS and DOES ONE through FIFTY are employers in the State of California, as defined in the California Fair Employment and Housing Act ("FEHA").

30. DEFENDANTS and DOES ONE through FIFTY discriminated against plaintiff on the basis of her color, race (African-American), national origin (Trinidad-American), sex (female), and age (50), or any combination of these, and discharged and/or failed to hire plaintiff because of her color, race (African-American), national origin (Trinidad-American), sex (female), and age (50) or any combination of these, in violation of the California Fair Employment and Housing Act. DEFENDANTS told plaintiff that she was terminated due to changes in business related to the acquisition of CPS by JPMORGAN. Other younger American Caucasian male CPS employees were not terminated as a result of the same change in business even though they were less qualified and less experienced than plaintiff. Defendants engaged in a pattern and practice of discrimination. The policies of defendants which were neutral on their face resulted in a disparate impact on the class of African-American, Trinidad-American, female, and older employees or any combination of these, and plaintiff was treated differently on those bases.

31. Plaintiff filed a charge of discrimination with the California Department of Fair Employment and Housing within one year of the discrimination. The Department issued plaintiff a right-to-sue letter within one year of the filing of this complaint. Plaintiff has exhausted her administrative remedies.

32. Plaintiff suffered damages legally caused by these defendants' discrimination as stated in the section below entitled "DAMAGES," which is incorporated here to the extent pertinent as if set forth here in full.

SIXTH CAUSE OF ACTION
Retaliation in Violation of the
California Fair Employment and Housing Act

As a sixth, separate and distinct cause of action, plaintiff complains against DEFENDANTS and DOES ONE through FIFTY, and each of them, and for a cause of action alleges:

33. Plaintiff hereby incorporates by reference Paragraphs 1 through 7, inclusive, as though set forth here in full.

34. DEFENDANTS and DOES ONE through FIFTY are employers in the State of California, as defined in the California Fair Employment and Housing Act ("FEHA").

35. DEFENDANTS and DOES ONE through FIFTY retaliated against plaintiff on the basis of her complaining about a warning which was unfounded and issued on the basis of plaintiff's race, national origin, sex, and/or age. Plaintiff complained about this improper and discriminatory warning. The warning was retracted and the human resources department of CFS promised to remove the warning from plaintiff's personnel file. However, record of the complaint was not removed from plaintiff's personnel file and was subsequently used by DEFENDANTS as a basis for failing to hire and/or firing plaintiff. Plaintiff was retaliated against because she complained about the treatment to which she was subjected in violation of the California Fair Employment and Housing Act. Defendants engaged in a pattern and practice of retaliation. The policies of defendants which were neutral on their face resulted in a disparate impact on the class of individuals who complained about the treatment to which they were subjected and plaintiff was treated differently because of her complaints.

36. Plaintiff filed a charge of retaliation with the California Department of Fair Employment and Housing within one year of the retaliation. The Department issued plaintiff a right-to-sue letter within one year of the filing of this complaint. Plaintiff has exhausted her administrative remedies.

37. Plaintiff suffered damages legally caused by these defendants' retaliation as stated in the section below entitled "DAMAGES," which is incorporated here to the extent pertinent as if set forth here in full.

SEVENTH CAUSE OF ACTION
Racial Discrimination in Violation of Title VII

As a seventh, separate and distinct cause of action, plaintiff complains against DEFENDANTS and DOES ONE through FIFTY, and each of them, and for a cause of action alleges:

38. Plaintiff hereby incorporates by reference Paragraphs 1 through 7, inclusive, as though set forth here in full.

39. DEFENDANTS and DOES ONE through FIFTY are employers as defined in Title VII of the Civil Rights Act, 42 U.S.C. §2000e et seq. ("Title VII").

40. DEFENDANTS and DOES ONE through FIFTY discriminated against plaintiff on the basis of her color and race, African-American, and discharged plaintiff and/or failed to hire her because of her race, African-American, in violation of Title VII. DEFENDANTS told plaintiff that she was terminated due to changes in business related to the acquisition of CPS by JPMORGAN. Other Caucasian CPS employees were not terminated as a result of the same change in business even though they were less qualified and less experienced than plaintiff and plaintiff was not selected for other open positions. Defendants engaged in a pattern and practice of discrimination. The policies of defendants which were neutral on their face resulted in a disparate impact on the class of African-Americans and plaintiff was treated differently because of her color and race.

41. Plaintiff filed a charge of race discrimination with the Equal Opportunity Employment Commission within 300 days of the discrimination. The Commission issued plaintiff a right-to-sue letter within ninety days of the filing of this complaint. Plaintiff has exhausted her administrative remedies.

42. Plaintiff suffered damages legally caused by these defendants' discrimination as stated in the section below entitled "DAMAGES," which is incorporated here to the extent pertinent as if set forth here in full.

///

///

///

EIGHTH CAUSE OF ACTION
National Origin Discrimination in Violation of Title VII

As an eighth, separate and distinct cause of action, plaintiff complains against DEFENDANTS and DOES ONE through FIFTY, and each of them, and for a cause of action alleges:

43. Plaintiff hereby incorporates by reference Paragraphs 1 through 7, inclusive, as though set forth here in full.

44. DEFENDANTS and DOES ONE through FIFTY are employers as defined in Title VII of the Civil Rights Act, 42 U.S.C. §2000e et seq. ("Title VII").

45. DEFENDANTS and DOES ONE through FIFTY discriminated against plaintiff on the basis of her national origin, Trinidad-American and discharged and/or failed to hire plaintiff because of her national origin, Trinidad-American, in violation of Title VII. DEFENDANTS told plaintiff that she was terminated due to changes in business related to the acquisition of CPS by JPMORGAN. Other American CPS employees were not terminated as a result of the same change in business even though they were less qualified and less experienced than plaintiff and plaintiff was not selected for other open positions. Defendants engaged in a pattern and practice of discrimination. The policies of defendants which were neutral on their face resulted in a disparate impact on the class of Trinidad-Americans and plaintiff was treated differently because of her national origin.

46. Plaintiff filed a charge of national origin discrimination with the Equal Opportunity Employment Commission within 300 days of the discrimination. The Commission issued plaintiff a right-to-sue letter within ninety days of the filing of this complaint. Plaintiff has exhausted her administrative remedies.

47. Plaintiff suffered damages legally caused by these defendants' discrimination as stated in the section below entitled "DAMAGES," which is incorporated here to the extent pertinent as if set forth here in full.

///

///

///

NINTH CAUSE OF ACTION
Sex Discrimination in Violation of Title VII

As a ninth, separate and distinct cause of action, plaintiff complains against DEFENDANTS and DOES ONE through FIFTY, and each of them, and for a cause of action alleges:

48. Plaintiff hereby incorporates by reference Paragraphs 1 through 7, inclusive, as though set forth here in full.

49. DEFENDANTS and DOES ONE through FIFTY are employers as defined in Title VII of the Civil Rights Act, 42 U.S.C. §2000e et seq. ("Title VII").

50. DEFENDANTS and DOES ONE through FIFTY discriminated against plaintiff on the basis of her sex, and discharged and/or failed to hire plaintiff because of her sex, female, in violation of Title VII. DEFENDANTS told plaintiff that she was terminated due to changes in business related to the acquisition of CPS by JPMORGAN. Other male CPS employees were not terminated as a result of the same change in business even though they were less qualified and less experienced than plaintiff and plaintiff was not selected for other open positions. Defendants engaged in a pattern and practice of discrimination. The policies of defendants which were neutral on their face resulted in a disparate impact on the class of female employees and plaintiff was treated differently because of her sex.

51. Plaintiff filed a charge of sex discrimination with the Equal Opportunity Employment Commission within 300 days of the discrimination. The Commission issued plaintiff a right-to-sue letter within ninety days of the filing of this complaint. Plaintiff has exhausted her administrative remedies.

52. Plaintiff suffered damages legally caused by these defendants' discrimination as stated in the section below entitled "DAMAGES," which is incorporated here to the extent pertinent as if set forth here in full.

///

///

///

TENTH CAUSE OF ACTION
Retaliation in Violation of Title VII

As a tenth, separate and distinct cause of action, plaintiff complains against DEFENDANTS and DOES ONE through FIFTY, and each of them, and for a cause of action alleges:

53. Plaintiff hereby incorporates by reference Paragraphs 1 through 7, inclusive, as though set forth here in full.

54. DEFENDANTS and DOES ONE through FIFTY are employers as defined in Title VII of the Civil Rights Act, 42 U.S.C. §2000e et seq. ("Title VII").

55. DEFENDANTS and DOES ONE through FIFTY retaliated against plaintiff on the basis of her complaining about a warning which was unfounded and issued on the basis of plaintiff's race and/or national origin and/or sex. Plaintiff complained about this improper and discriminatory warning. The warning was retracted and the human resources department of CFS promised to remove the warning from plaintiff's personnel file. However, record of the complaint was not removed from plaintiff's personnel file and was subsequently used by DEFENDANTS as a basis for failing to hire and/or firing plaintiff. Plaintiff was retaliated against because she complained about the treatment to which she was subjected in violation of Title VII. Defendants engaged in a pattern and practice of retaliation. The policies of defendants which were neutral on their face resulted in a disparate impact on the class of individuals who complained about the treatment to which they were subjected and plaintiff was treated differently because of her complaints.

56. Plaintiff filed a charge of retaliation with the Equal Opportunity Employment Commission within 300 days of the discrimination. The Commission issued plaintiff a right-to-sue letter within ninety days of the filing of this complaint. Plaintiff has exhausted her administrative remedies.

57. Plaintiff suffered damages legally caused by these defendants' retaliation as stated in the section below entitled "DAMAGES," which is incorporated here to the extent pertinent as if set forth here in full.

///

ELEVENTH CAUSE OF ACTION
Age Discrimination in Violation of the
Age Discrimination in Employment Act

As a eleventh, separate and distinct cause of action, plaintiff complains against DEFENDANTS and DOES ONE through FIFTY, and each of them, and for a cause of action alleges:

58. Plaintiff hereby incorporates by reference Paragraphs 1 through 7, inclusive, as though set forth here in full.

59. DEFENDANTS and DOES ONE through FIFTY are employers as defined in the Age Discrimination in Employment Act ("ADEA").

60. DEFENDANTS and DOES ONE through FIFTY discriminated against plaintiff on the basis of her age, 50, and discharged and/or failed to hire plaintiff because of her age, 50, in violation of the ADEA. DEFENDANTS told plaintiff that she was terminated due to changes in business related to the acquisition of CPS by JPMORGAN. Other younger CPS employees were not terminated as a result of the same change in business even though they were less qualified and less experienced than plaintiff and plaintiff was not selected for other open positions. Defendants engaged in a pattern and practice of discrimination. The policies of defendants which were neutral on their face resulted in a disparate impact on the class of older employees and plaintiff was treated differently because of her age.

61. Plaintiff filed a charge of age discrimination with the Equal Opportunity Employment Commission within 300 days of the discrimination. The Commission issued plaintiff a right-to-sue letter within ninety days of the filing of this complaint. Plaintiff has exhausted her administrative remedies.

62. Plaintiff suffered damages legally caused by these defendants' discrimination as stated in the section below entitled "DAMAGES," which is incorporated here to the extent pertinent as if set forth here in full.

///

///

///

TWELFTH CAUSE OF ACTION
Retaliation in Violation of the
Age Discrimination in Employment Act

As a twelfth, separate and distinct cause of action, plaintiff complains against DEFENDANTS and DOES ONE through FIFTY, and each of them, and for a cause of action alleges:

63. Plaintiff hereby incorporates by reference Paragraphs 1 through 7, inclusive, as though set forth here in full.

64. DEFENDANTS and DOES ONE through FIFTY are employers as defined in the Age Discrimination in Employment Act ("ADEA").

65. DEFENDANTS and DOES ONE through FIFTY retaliated against plaintiff on the basis of her complaining about a warning which was unfounded and issued on the basis of plaintiff's age. Plaintiff complained about this improper and discriminatory warning. The warning was retracted and the human resources department of CFS promised to remove the warning from plaintiff's personnel file. However, record of the complaint was not removed from plaintiff's personnel file and was subsequently used by DEFENDANTS as a basis for failing to hire and/or firing plaintiff. Plaintiff was retaliated against because she complained about the treatment to which she was subjected in violation of the ADEA. Defendants engaged in a pattern and practice of retaliation. The policies of defendants which were neutral on their face resulted in a disparate impact on the class of individuals who complained about the treatment to which they were subjected and plaintiff was treated differently because of her complaints.

66. Plaintiff filed a charge of retaliation with the Equal Opportunity Employment Commission within 300 days of the discrimination. The Commission issued plaintiff a right-to-sue letter within ninety days of the filing of this complaint. Plaintiff has exhausted her administrative remedies.

67. Plaintiff suffered damages legally caused by these defendants' retaliation as stated in the section below entitled "DAMAGES," which is incorporated here to the extent pertinent as if set forth here in full.

///

Complaint

THIRTEENTH CAUSE OF ACTION
Discrimination in Violation of Title VII and the ADEA

As a thirteenth, separate and distinct cause of action, plaintiff complains against DEFENDANTS and DOES ONE through FIFTY, and each of them, and for a cause of action alleges:

68. Plaintiff hereby incorporates by reference Paragraphs 1 through 7, inclusive, as though set forth here in full.

69. DEFENDANTS and DOES ONE through FIFTY are employers as defined in Title VII of the Civil Rights Act, 42 U.S.C. §2000e et seq. ("Title VII") and the Age Discrimination in Employment Act ("ADEA").

70. DEFENDANTS and DOES ONE through FIFTY discriminated against plaintiff on the basis of her color, race (African-American), national origin (Trinidad-American), sex (female), and age (50), or any combination of these, and discharged and/or failed to hire plaintiff because of her color, race (African-American), national origin (Trinidad-American), sex (female), and age (50) or any combination of these, in violation of Title VII and the ADEA. DEFENDANTS told plaintiff that she was terminated due to changes in business related to the acquisition of CPS by JPMORGAN. Other younger American Caucasian male CPS employees were not terminated as a result of the same change in business even though they were less qualified and less experienced than plaintiff and plaintiff was not selected for other open positions. Defendants engaged in a pattern and practice of discrimination. The policies of defendants which were neutral on their face resulted in a disparate impact on the class of African-American, Trinidad-American, female, and older employees or any combination of these, and plaintiff was treated differently on those bases.

71. Plaintiff filed a charge of discrimination with the Equal Opportunity Employment Commission within 300 days of the discrimination. The Commission issued plaintiff a right-to-sue letter within ninety days of the filing of this complaint. Plaintiff has exhausted her administrative remedies.

///

///

1 72. Plaintiff suffered damages legally caused by these defendants' discrimination as stated
 2 in the section below entitled "DAMAGES," which is incorporated here to the extent pertinent as if set
 3 forth here in full.

4
 5 **FOURTEENTH CAUSE OF ACTION**
 6 **Retaliation in Violation of Title VII and the ADEA**

7 As a fourteenth, separate and distinct cause of action, plaintiff complains against
 8 DEFENDANTS and DOES ONE through FIFTY, and each of them, and for a cause of action alleges:

9 73. Plaintiff hereby incorporates by reference Paragraphs 1 through 7, inclusive, as though
 10 set forth here in full.

11 74. DEFENDANTS and DOES ONE through FIFTY are employers as defined in Title VII
 12 of the Civil Rights Act, 42 U.S.C. §2000e et seq. ("Title VII") and the Age Discrimination in
 13 Employment Act ("ADEA").

14 75. DEFENDANTS and DOES ONE through FIFTY retaliated against plaintiff on the
 15 basis of her complaining about a warning which was unfounded and issued on the basis of plaintiff's
 16 race and/or national origin and/or sex and/or age. Plaintiff complained about this improper and
 17 discriminatory warning. The warning was retracted and the human resources department of CFS
 18 promised to remove the warning from plaintiff's personnel file. However, record of the complaint
 19 was not removed from plaintiff's personnel file and was subsequently used by DEFENDANTS as a
 20 basis for failing to hire and/or firing plaintiff. Plaintiff was retaliated against because she complained
 21 about the treatment to which she was subjected in violation of Title VII and the ADEA. Defendants
 22 engaged in a pattern and practice of retaliation. The policies of defendants which were neutral on
 23 their face resulted in a disparate impact on the class of individuals who complained about the
 24 treatment to which they were subjected and plaintiff was treated differently because of her complaints.

25 76. Plaintiff filed a charge of retaliation with the Equal Opportunity Employment
 26 Commission within 300 days of the discrimination. The Commission issued plaintiff a right-to-sue

///

Complaint

1 letter within ninety days of the filing of this complaint. Plaintiff has exhausted her administrative
2 remedies.

3 77. Plaintiff suffered damages legally caused by these defendants' retaliation as stated in
4 the section below entitled "DAMAGES," which is incorporated here to the extent pertinent as if set
5 forth here in full.

6
7 **FIFTEENTH CAUSE OF ACTION**
8 **Racial Discrimination in Violation of 42 U.S.C. §1981**

9 As a fifteenth, separate and distinct cause of action, plaintiff complains against
10 DEFENDANTS and DOES ONE through FIFTY, and each of them, and for a cause of action alleges:

11 78. Plaintiff hereby incorporates by reference Paragraphs 1 through 7, inclusive, as though
12 set forth here in full.

13 79. DEFENDANTS and DOES ONE through FIFTY are employers in the State of
14 California, as defined in 42 U.S.C. § 1981 ("§ 1981").

15 80. DEFENDANTS and DOES ONE through FIFTY discriminated against plaintiff on the
16 basis of her color and race, African-American, and discharged plaintiff and/or failed to hire her
17 because of her race, African-American, in violation of §1981. DEFENDANTS told plaintiff that she
18 was terminated due to changes in business related to the acquisition of CPS by JPMORGAN. Other
19 Caucasian CPS employees were not terminated as a result of the same change in business even though
20 they were less qualified and less experienced than plaintiff and plaintiff was not selected for other
21 open positions. Defendants engaged in a pattern and practice of discrimination. The policies of
22 defendants which were neutral on their face resulted in a disparate impact on the class of African-
23 Americans and plaintiff was treated differently because of her color and race.

24 81. Plaintiff suffered damages legally caused by these defendants' discrimination as stated
25 in the section below entitled "DAMAGES," which is incorporated here to the extent pertinent as if set
26 forth here in full.

///

DAMAGES

82. As a legal result of the conduct by defendants of which plaintiff complains, plaintiff suffered and continues to suffer substantial losses in earnings and other employee benefits. Plaintiff will seek leave to amend this complaint to state the amount or will proceed according to proof at trial.

83. At the time plaintiff entered into the employment agreement and continuing thereafter, all parties to the agreement contemplated and it was reasonably foreseeable that breach of the agreement would cause plaintiff to suffer emotional distress. At all times, it was likely in the ordinary course of things that breach of the employment agreement would cause plaintiff to suffer emotional distress. The terms of the employment agreement related to matters which directly concerned plaintiff's comfort, happiness and personal welfare, and defendants were aware of this at the time they entered into the agreement and continuing thereafter. The subject matter of the employment agreement was such as to directly affect plaintiff's self esteem and emotional well being, and defendants were aware of this at the time they entered into the agreement and continuing thereafter.

84. Plaintiff suffered emotional distress as a legal result of the conduct by defendants of which plaintiff complains. Plaintiff suffered mental distress, suffering and anguish as a legal result of defendants' outrageous conduct, reacting to her discharge with humiliation, embarrassment, anger, disappointment and worry, all of which is substantial and enduring. Plaintiff will seek leave to amend this complaint to state the amount or will proceed according to proof at trial.

85. At all material times, defendants, and each of them, knew that plaintiff depended on her wages and other employee benefits as a source of earned income. At all material times, defendants were in a position of power over plaintiff, with the potential to abuse that power. Plaintiff was in a vulnerable position because of her relative lack of power, because of her reliance on defendants' assurances and forbearance of the possibility of becoming employed elsewhere, because she had placed her trust in defendants, because she depended on her employment for her self esteem and sense of belonging, because she relied upon her employment as a source of income for her support, because a wrongful termination of plaintiff's employment would likely harm plaintiff's ability

1 to find other employment, and because of the great disparity in bargaining power between plaintiff
2 and her employer. Defendants were aware of plaintiff's vulnerability and the reasons for it.

3 86. Notwithstanding such knowledge, defendants, and each of them, acted oppressively,
4 fraudulently, and maliciously, in willful and conscious disregard of plaintiff's rights, and with the
5 intention of causing or in reckless disregard of the probability of causing injury and emotional distress
6 to the plaintiff.

7 87. Further, defendants were informed of the oppressive, fraudulent and malicious conduct
8 of their employees, agents and subordinates, and ratified, approved, and authorized that conduct.

9 88. The foregoing conduct of defendants, and each of them, was intentional, willful and
10 malicious and plaintiff is entitled to punitive damages in an amount to conform to proof.

11 89. Plaintiff also is entitled to attorneys' fees and costs pursuant to California Labor Code
12 §218.5.

13 PRAYER

14
15 Wherefore plaintiff prays for judgment against defendants, and each of them, as follows:

16 1. For a money judgment representing compensatory damages including lost wages,
17 earnings, retirement benefits and other employee benefits, and all other sums of money, together with
18 interest on these amounts, according to proof;

19 2. For a money judgment for mental pain and anguish and emotional distress, according
20 to proof;

21 3. For an award of punitive damages, according to proof;

22 4. For costs of suit and attorney fees;

23 ///

24 ///

25 ///

26 ///

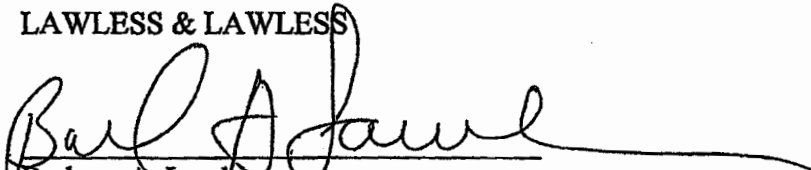
///

5. For prejudgment and postjudgment interest;
6. For any other relief that is just and proper.
7. For attorney fees pursuant to C.C.P. § 1021.5 and Gov't. Code § 12965(b).

Dated: July 17, 2007

LAWLESS & LAWLESS

by


Barbara A. Lawless
Sonya L. Smallets
Attorneys for Plaintiff

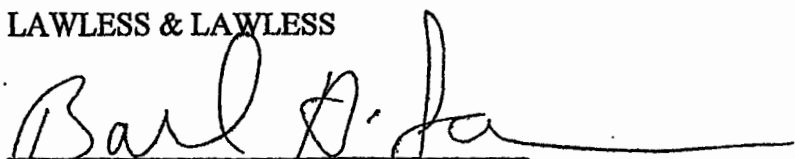
JURY TRIAL DEMANDED

Plaintiff demands trial of all issues by jury.

Dated: July 17, 2007

LAWLESS & LAWLESS

by


Barbara A. Lawless
Sonya L. Smallets
Attorneys for Plaintiff